

Uttaranchal High Court

Manoj Kumar vs Chief Information Commissioner ... on 9 January, 2012

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Appeal No. 02 of 2012

Manoj Kumar Appellant

Versus

Chief Information Commissioner

and others Respondents

**Mr. Navneet Kaushik with Mr. Harshpal Sekhon, Advocates for
the appellant.**

Mr. Vinay Kumar, Standing Counsel for the State / respondents.

JUDGMENT

Coram : Hon'ble Barin Ghosh, C. J. Hon'ble U.C. Dhyani, J.

BARIN GHOSH, C.J. (Oral)

Delay Condonation Application No. 23 of 2012

Despite obtaining an opportunity to file an objection to the application for condonation of delay in preferring the appeal, no objection has been filed. We have considered the averments made in the application for condonation of delay in preferring the appeal, and being satisfied with the reasons furnished therein, we allow the said application.

An information was sought regarding steps that have been taken against the appellant in relation to temporary embezzlement of funds belonging to the State. No information in respect thereof was furnished. Matter was, accordingly, taken up before the Information Commissioner. The Information Commissioner found that

despite the facts constituting temporary embezzlement of public money stands established on record, no first information report has been filed. He felt that in such circumstances the authorities, who refused to give the information, are liable also to be proceeded departmentally. While adjourning the matter, he felt that it would be appropriate to lodge a first information report, by those authorities. Contending that the Information Commissioner had no jurisdiction to pass such order under the Act and the Rules from where he derives power, a writ petition was filed. A learned Judge, noting that there was material to suggest temporary embezzlement, felt no interference is called for, and accordingly, rejected the writ petition. Being aggrieved thereby, the present appeal has been filed. The order directing filing of a first information report is certainly beyond the jurisdiction of the Information Commissioner, and accordingly, the same could or could not be acted upon by the persons, who were directed to file the first information report. With the observation as above, we dispose of the appeal, and accordingly, make it clear that it is not binding on the persons, who have been asked to file the first information report, to infact file a first information report.

(U.C. Dhyani, J.) (Barin Ghosh, C.J.) 09.01.2012

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